

## § 265.94

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determination under paragraph (d)(4) of this section, that no hazardous waste or hazardous waste constituents from the facility have entered the ground water, then he may reinstate the indicator evaluation program described in § 265.92 and paragraph (b) of this section. If the owner or operator reinstates the indicator evaluation program, he must so notify the Regional Administrator in the report submitted under paragraph (d)(5) of this section.

(7) If the owner or operator determines, based on the first determination under paragraph (d)(4) of this section, that hazardous waste or hazardous waste constituents from the facility have entered the ground water, then he:

(i) Must continue to make the determinations required under paragraph (d)(4) of this section on a quarterly basis until final closure of the facility, if the ground-water quality assessment plan was implemented prior to final closure of the facility; or

(ii) May cease to make the determinations required under paragraph (d)(4) of this section, if the ground-water quality assessment plan was implemented during the post-closure care period.

(e) Notwithstanding any other provision of this subpart, any ground-water quality assessment to satisfy the requirements of § 265.93(d)(4) which is initiated prior to final closure of the facility must be completed and reported in accordance with § 265.93(d)(5).

(f) Unless the ground water is monitored to satisfy the requirements of § 265.93(d)(4), at least annually the owner or operator must evaluate the data on ground-water surface elevations obtained under § 265.92(e) to determine whether the requirements under § 265.91(a) for locating the monitoring wells continues to be satisfied. If the evaluation shows that § 265.91(a) is no longer satisfied, the owner or operator must immediately modify the number, location, or depth of the monitoring wells to bring the ground-water monitoring system into compliance with this requirement.

[45 FR 33232, May 19, 1980, as amended at 50 FR 4514, Jan. 31, 1985; 71 FR 16909, Apr. 4, 2006]

## § 265.94 Recordkeeping and reporting.

(a) Unless the ground water is monitored to satisfy the requirements of § 265.93(d)(4), the owner or operator must:

(1) Keep records of the analyses required in § 265.92(c) and (d), the associated ground-water surface elevations required in § 265.92(e), and the evaluations required in § 265.93(b) throughout the active life of the facility, and, for disposal facilities, throughout the post-closure care period as well; and

(2) Report the following ground-water monitoring information to the Regional Administrator:

(i) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters listed in § 265.92(b)(1) for each ground-water monitoring well within 15 days after completing each quarterly analysis. The owner or operator must separately identify for each monitoring well any parameters whose concentration or value has been found to exceed the maximum contaminant levels listed in appendix III.

(ii) Annually: Concentrations or values of the parameters listed in § 265.92(b)(3) for each ground-water monitoring well, along with the required evaluations for these parameters under § 265.93(b). The owner or operator must separately identify any significant differences from initial background found in the upgradient wells, in accordance with § 265.93(c)(1). During the active life of the facility, this information must be submitted no later than March 1 following each calendar year.

(iii) No later than March 1 following each calendar year: Results of the evaluations of ground-water surface elevations under § 265.93(f), and a description of the response to that evaluation, where applicable.

(b) If the ground water is monitored to satisfy the requirements of § 265.93(d)(4), the owner or operator must:

(1) Keep records of the analyses and evaluations specified in the plan, which satisfies the requirements of § 265.93(d)(3), throughout the active life

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of the facility, and, for disposal facilities, throughout the post-closure care period as well; and

(2) Annually, until final closure of the facility, submit to the Regional Administrator a report containing the results of his or her ground-water quality assessment program which includes, but is not limited to, the calculated (or measured) rate of migration of hazardous waste or hazardous waste constituents in the ground water during the reporting period. This information must be submitted no later than March 1 following each calendar year.

[45 FR 33232, May 19, 1980, as amended at 48 FR 3982, Jan. 28, 1983; 50 FR 4514, Jan. 31, 1985]

### Subpart G—Closure and Post-Closure

SOURCE: 51 FR 16451, May 2, 1986, unless otherwise noted.

#### § 265.110 Applicability.

Except as § 265.1 provides otherwise:

(a) Sections 265.111 through 265.115 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and

(b) Sections 265.116 through 265.120 (which concern post-closure care) apply to the owners and operators of:

(1) All hazardous waste disposal facilities;

(2) Waste piles and surface impoundments for which the owner or operator intends to remove the wastes at closure to the extent that these sections are made applicable to such facilities in § 265.228 or § 265.258;

(3) Tank systems that are required under § 265.197 to meet requirements for landfills; and

(4) Containment buildings that are required under § 265.1102 to meet the requirement for landfills.

(c) Section 265.121 applies to owners and operators of units that are subject to the requirements of 40 CFR 270.1(c)(7) and are regulated under an enforceable document (as defined in 40 CFR 270.1(c)(7)).

(d) The Regional Administrator may replace all or part of the requirements of this subpart (and the unit-specific

standards in § 265.111(c)) applying to a regulated unit (as defined in 40 CFR 264.90), with alternative requirements for closure set out in an approved closure or post-closure plan, or in an enforceable document (as defined in 40 CFR 270.1(c)(7)), where the Regional Administrator determines that:

(1) A regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release, and

(2) It is not necessary to apply the closure requirements of this subpart (and/or those referenced herein) because the alternative requirements will protect human health and the environment, and will satisfy the closure performance standard of § 265.111 (a) and (b).

[51 FR 16451, May 2, 1986, as amended at 51 FR 25479, July 14, 1986; 53 FR 34086, Sept. 2, 1988; 57 FR 37267, Aug. 18, 1992; 63 FR 56734, Oct. 22, 1998; 71 FR 40274, July 14, 2006]

#### § 265.111 Closure performance standard.

The owner or operator must close the facility in a manner that:

(a) Minimizes the need for further maintenance, and

(b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere, and

(c) Complies with the closure requirements of this subpart, including, but not limited to, the requirements of §§ 265.197, 265.228, 265.258, 265.280, 265.310, 265.351, 265.381, 265.404, and 265.1102.

[51 FR 16451, May 2, 1986, as amended at 57 FR 37267, Aug. 18, 1992; 71 FR 40275, July 14, 2006]

#### § 265.112 Closure plan; amendment of plan.

(a) *Written plan.* By May 19, 1981, or by six months after the effective date of the rule that first subjects a facility to provisions of this section, the owner